

Remarks

The Office Action contained the following rejections:

claims 16-20 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite;

claims 1-5, 8-11 and 14-20 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,299,774 to Ainsworth et al; and

claims 6, 7, 12 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ainsworth et al.

Applicants have amended claims 16-20 to eliminate the “use” language and to claim a liquid fraction. Accordingly, the §112, second paragraph, rejection no longer applies and should be withdrawn.

With respect to the rejections under 35 U.S.C. §102, or 103, it is clear from the Ainsworth et al. that the major distinction of this patent with respect to the prior art is the use of a pressurized system (see column 3, lines 52 to 54). The present invention does not use any pressure in the practice of the process of the present invention. Nowhere in the present application is there a suggestion that pressure is being used. The process of the present invention is conducted at normal or atmospheric pressure. The claims have been amended to recite this major distinction that provides an advantage to applicants with respect to the process of Ainsworth et al. It is clear from the description that Ainsworth et al. use pressure as they have pressure controllers, an actuator for the pressurizer and a pressure monitor. None of these features are found in the fermentor of the present invention, nor are they recited in the claims.

Furthermore, Ainsworth et al. require a reduction in the particle size before the process could be practiced. Ainsworth et al. use a feed stock particle size reducer as well as one or more additional storage tanks for separating the slurry so as to obtain only a specific fraction for further fermentation and degradation. The present invention does not use additional tanks for separating out a specific fraction to be fermented.

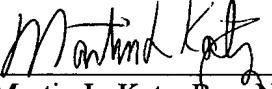
In view of the amendment to claim 1 and the above remarks, it is submitted that the rejections under §102(b) and §103(a) are improper and should be withdrawn.

If any additional fees are incurred as a result of the filing of this paper, authorization is given to charge deposit account number 23-0785.

Respectfully submitted,

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER

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Date: February 28, 2005

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37 CFR 1.8
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I hereby certify that this correspondence is being deposited with United States First Class Mail to Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on February 28, 2005.


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